

Court of Appeals, State of Michigan

ORDER

People of MI v Amos Garrett Nickles

Docket No. 258850

LC No. 03-067853-FH

David H. Sawyer
Presiding Judge

Jane E. Markey

Michael R. Smolenski
Judges

The Court orders that the motion to remand for purposes of conducting an evidentiary hearing pursuant to *People v Ginther*, 390 Mich 436; 212 NW2d 922 (1993), is DENIED for failure to demonstrate a need for a remand. MCR 7.211(C)(1).

The Court further orders that the motion to remand for purposes of moving for resentencing and challenging the scoring of Offense Variables 9 and 11 pursuant to MCR 7.211(C) is GRANTED, and the matter is REMANDED to the trial court so that appellant may file, within 14 days, a motion for resentencing. MCL 769.34(10); see also, *People v Kimball*, 470 Mich 305; 684 NW2d 669 (2004). Proceedings on remand are limited to the issues raised in the motion to remand that address the scoring challenges.

Appellant is to file with this Court a copy of any motion and any supporting brief filed in the trial court within 14 days of the Clerk's certification of this order. Appellant must also file with the Clerk of this Court copies of all orders entered on remand within 14 days after entry.

The trial court is to make findings of fact and a determination on the record. The trial court is to cause a transcript of any hearing on remand to be prepared and filed within 21 days after completion of the proceedings.

This Court retains jurisdiction in the cause, and the time for proceeding with the appeal in this Court begins upon issuance of an order in the trial court that finally disposes of the remand proceedings. Nevertheless, the time for proceeding with the appeal begins 14 days from the date of certification of this order if remand pleadings are not filed in the trial court within the 14-day period.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

FEB 25 2005
Date

Sandra Schultz Mengel
Chief Clerk